

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Paul Sinclair, et al.	§	Group Art Unit:	2177
		§		
Serial No.:	09/713,887	§		
		§	Examiner:	Mohammad Ali
Filed:	11/16/2000	§		
		§		
For:	LOCKING DATA INA DATABASE	§	Atty. Dkt. No.:	8779
	AFTER AN OPERATION HAS	§		
	BEGUN	§		

Mail Stop: Appeal  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF AND REQUEST FOR REVIEW

Dear Sir:

Applicant respectfully requests review of the final rejection, in this case. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

**Remarks/Arguments** begin on page 2 of this reply.

## REMARKS

Claims 1, 3-7, 9-15, 17-21, 23-27, and 30 are currently pending, in this application. The Office has rejected claims 1, 3-7, 9-15, 17-21, 23-27, and 30 under 35 USC § 102(b) as being anticipated by Lomet et al. (U.S. Pat. No. 5,485,607; hereinafter Lomet). This Office action is responsive to Applicant's reply filed on or before December 18, 2006 and has been made final. This pre-appeal brief is being filed with a notice of appeal.

### Premature Final Rejection

Applicant is aware that an assertion of premature final rejection is an improper basis for an appeal. Applicant's appeal does not stand or fall based on this argument. However, Applicant requests that it be entered into the record since it is one of the defects that necessitated this appeal.

The Office improperly made this action final. The Office asserts that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." (Office Action mailed March 8, 2007, page 5, and section 4.) In Applicant's reply filed December 18, 2006, Applicant did enter amendments to the claims but the amendments did not necessitate a search for new grounds for rejection as asserted by the Office. A number of the amendments were required by the Office to correct claim language the Office asserted to be indefinite in a 112 rejection. The Office required correction. The other amendments involved moving limitations from certain dependent claims into the independent claims they depended from and then canceling the dependent claims. No new limitations were added.

Since the canceled dependent claims had the same limitations now found in the amended independent claims, the previous rejection applied to the dependent claims should have been sufficient to reject the amended independent claims without the need for a new search. However, the Office chose to perform a new search. Therefore, the reason for the new search must lie in Applicant's argument traversing the rejection and not with the amendments. It is clear that Applicant's amendments did not necessitate the need for a search for new grounds of rejection. Thus, the finality of the rejection is premature.

Applicant asks that the finality of the Office Action be withdrawn and that all claims be allowed or that prosecution be reopened. Additionally, Applicant asks that the expense incurred by Applicant to file a notice of appeal to prevent abandonment of the application be refunded.

102(b) Rejection of Independent Claims 1, 7, 15, 21, and 30

Lomet does not show or suggest “receiving a request to perform an operation on a set of target data ... placing an initial lock on the target data to prevent concurrent execution of at least one operation on the target data ... [and] placing a final lock on the target data at a level that prevents concurrent execution of a larger set of operations,” as required by Applicant. Lomet teaches the use of multiple database locks that will not only lock a single record based on a key value but will also lock all records within a range of key values. In both the prior art and the disclosed invention, Lomet teaches the use of different locking modes that are classified as “intention” locking modes. Lomet states the “purpose [of the intention modes] is to indicate, with respect to a key range, that a further, covering lock will be acquired on a key value that falls within that range.” (Col. 5, lines 43-47.) Lomet clearly teaches that an “intention” locking mode first locks a range of key values and then acquires a lock on a single key value that falls within the initial range of key values. This is not what Applicant requires. Applicant requires the placing of an initial lock on a set of target data to prevent at least one operation on the target data then placing of final lock on the same target data at a level that prevents concurrent execution of a larger set of operations on the target data. Lomet restricts the second lock to a single key value where the first lock was on a range of key values. Lomet’s “covering lock” only applies to a single key value and not to the entire original range of key values. Therefore, Lomet does not teach “placing a final lock on the target data at a level that prevents concurrent execution of a larger set of operations,” as required by Applicant. This rejection is improper because at least this element of Applicant’s claimed invention is missing from the prior art. Applicant’s claims are allowable over the prior art of record.

Rejection of the Dependent Claims

The dependent claims are allowable for at least the same reasons presented above for the independent claims.

CONCLUSION

Applicant asks that the Office reconsider this application and allow all pending claims. Please charge any fees that might be due, excluding the issue fee, to deposit account 14-0225.

Respectfully submitted,

Date: June 8, 2007  
(Electronically Submitted)

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